

15 FAM 430

POST RESPONSIBILITIES AND PROCEDURES

(CT:OBO-36; 10-31-2013)
(Office of Origin: OBO)

15 FAM 431 GENERAL RESPONSIBILITIES

(CT:OBO-36; 10-31-2013)

- a. Posts are responsible for providing information and documentation on acquisition-related activities at various stages to the Bureau of Overseas Buildings Operations (OBO) for Department *of State* properties, or, in the case of *United States* Agency for International Development (USAID) properties, the Overseas Management Division, Office of Management Services, Bureau for Management, USAID/Washington (USAID/W-M/MS/OMD). Information and documents include the following:
 - (1) Acquisition proposal;
 - (2) Pre-purchase certification;
 - (3) Purchase agreement; and
 - (4) Acceptance of gifts.
- b. Posts must follow required procedures in 15 FAM 432 through 15 FAM 460 and obtain OBO approval for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD approval, as required, before proceeding.

15 FAM 432 REQUIRED PROCEDURES

15 FAM 432.1 General

(CT:OBO-36; 10-31-2013)

Because of the significant financial implications, OBO and USAID/W-M/MS/OMD retain the sole authority to acquire real property. Posts wishing to acquire property must consult with OBO for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD to obtain specific authorization at each phase of an acquisition process. In seeking such authorization, posts must follow the procedures outlined below.

15 FAM 432.2 Documentation Required for Acquisition

Proposals

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a. Posts interested in acquiring property first should consult with the Bureau of Overseas Buildings Operations (OBO). In the case of USAID property proposals, post should consult with USAID/W-M/MS/OMD. When advised of the proposal's approval in principle, post must send a complete acquisition proposal in English to OBO for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, including the following documentation, labeled according to the clauses below:

(1) Narrative description of the property including the following:

- (a) Lot number, block number, name of subdivision or tract, street, and house number;
- (b) Total lot area, both in local measure and in the equivalent number of hectares or square meters;
- (c) Number of buildings, gross and net space of each, their ages and condition, cost of initial repairs, and improvements needed (see 15 FAM 238 for instructions on measuring net and gross space);
- (d) Type of surroundings (residential, commercial, industrial) and expected future development trends of the district;
- (e) Building and zoning restrictions pertaining both to the proposed property and to neighboring properties;
- (f) Sources and adequacy of heat, power, water, garbage, and sewage disposal facilities, and the rates for such municipal or private services; and
- (g) Any special rights as indicated in 15 FAM 412.4-2;

(2) Present owner's name and address;

(3) Justification and cost, including the following:

- (a) Purpose of and need for the property acquisition;
- (b) Current rental costs for comparable properties;
- (c) Rental cost trends for the past 10 years;
- (d) Asking price;
- (e) Post identification of required improvements, including those for security and fire and life safety;
- (f) Written rationale and justification for any proposed acquisition price that exceeds appraised value; and
- (g) Disclosure of and justification for the existence of a swimming pool and a statement that the inherent additional maintenance and code

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compliance costs and increased life or safety risks attributable to a pool were considered as a part of the decision-making process;

- (4) Property appraisal: As required in 15 FAM 413, two independent professional appraisals of the real property value should be procured prior to completing the purchase. The negotiations to purchase should be informed by the best market data available provided by in-house staff or outside consultants;
- (5) Facilities assessment. Provide an appraisal by a professional architect or engineer of the present condition of the building(s), including architectural treatment, structural system, mechanical or electrical systems, presence of friable asbestos, quality of construction, and maintainability of the buildings;
- (6) Plans and sketches including the following:
 - (a) A city map, with the site outlines marked, showing the property's location in relation to other U.S. Government properties, to the diplomatic and consular establishments of other governments, to the business district and prime residential areas, and to available public transportation facilities;
 - (b) Copies of the recorded survey plat or site plan sketch, showing boundary dimensions, the plot's land area, names and widths of abutting streets, an arrow indicating true north, and the location of any existing structures on the site in relation to the property boundaries;
 - (c) Floor plans to scale or dimensioned sketches showing the size of rooms, location of ingress or egress systems (including all windows, doors, stairways, and corridors), and the proposed allocation of space by personnel and function (for nonresidential space), with a statement of net space, location of any existing fire protection systems, and the coverage and current condition of the systems; and
 - (d) Architectural drawings, if available, showing façade and elevation treatment for all sides of the building(s), as well as all available construction drawings relating to the building(s) including architectural, electrical, mechanical, and structural drawings;
- (7) Type of ownership providing full legal details on the type of ownership offered and all information on existing encumbrances (easements, rights of way, host-country restrictions on property ownership, etc.);
- (8) Photographs of the ground and buildings showing the orientation of buildings on the site and interior views, including sufficient views of the immediate vicinity to indicate the character of the neighborhood;
- (9) Certifications, including:
 - (a) Regional security officer/post security officer (RSO/PSO) certification

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that the property conforms to the collocation and setback requirements set forth in the Secure Embassy Construction and Counterterrorism Act of 1999 (SECCA), or that a waiver is required (see 12 FAM 313), and meets or will meet the 12 FAH-6, Overseas Security Policy Board (OSPB) *Security Standards and Policy* Handbook based upon planned security upgrades being funded and installed before occupancy. When security upgrades are required for a facility to meet security standards, the RSO/PSO certification must identify each required *security* upgrade and its associated funding source (i.e., landlord, post, DS, or other agency). Security standards that are not met will require exceptions (see 12 FAM 315.2). *No* funds will be allotted toward the purchase of real property *or* with respect to the acquisition of land for the purpose of new construction *without an* RSO/PSO certification that his or her office has no objection to its acquisition on security grounds, and that the land proposed for acquisition can accommodate construction of a new facility in accordance with all applicable physical security standards, including setback requirements set forth in SECCA;

- (b) Post occupational safety and health officer (POSHO) certification that a residential property has no critical safety and health hazards present (see 15 FAM 252.5). For those properties not in full compliance, the POSHO certification will consist of a statement of work to be performed prior to purchase or occupancy. OBO's Office of Safety, Health and Environmental Management's (OBO/OPS/SHEM) Residential Safety, Health and Fire Prevention Awareness Checklist (the SHEM Life Safety Checklist contains additional guidelines to assist POSHOs);
- (c) Chief of *Mission* (COM) certification that the property requirement cannot be satisfied by better use of existing property and that the proposed property is not larger than needed; and/or
- (d) For USAID acquisitions, USAID principal officer certification that the property requirement cannot be satisfied by the better use of existing property and that the proposed property is not larger than needed;

(10) Ministry of *Foreign Affairs* (MFA) or equivalent approval, including:

- (a) Written approval from the host-country MFA to acquire the land or building(s); and
- (b) Written acknowledgment that, based upon the Vienna Convention(s) on Diplomatic and Consular Relations, the host country extends reciprocal exemption from all property-related dues, fees, and taxes, including recordation and transfer taxes.

- b. If post has difficulty obtaining the approvals/acknowledgments referenced in subparagraph a(10) of this section, post should consult with the Office of the Assistant Legal Adviser for Buildings and Acquisitions (L/BA) and OBO/PRE as to

how to proceed.

15 FAM 432.3 Pre-purchase Procedures

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For acquisitions, OBO for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, will advise posts on specific actions to take and what assistance *OBO or USAID/W-M/MS/OMD* will provide. Depending on the type, size, and location of the property, one or more of the following actions may be required (refer to 15 FAM 420 for selection and retention of expert services):

- (1) The post selects a legal expert (attorney and/or notary, depending on the circumstances) to investigate the title and draw up or approve and register the necessary documents in connection with the purchase;
- (2) The post selects an engineer or surveyor to make a land survey showing existing field conditions and comparing these with the existing title records in accordance with the survey requirements found in 15 FAM Exhibit 432.3; and/or
- (3) The post:
 - (a) Submits to OBO for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, an estimate of the fees for the services listed in subparagraphs (1) and (2) of this section;
 - (b) Provides a justification for the selection of these experts; and
 - (c) Advises OBO for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, of the legal experts' *liability* under local law for errors they may make in their certifications; and
- (4) Environmental issues will be evaluated and considered in the acquisition of a property, as appropriate.

15 FAM 432.4 Pre-purchase Certification

(CT:OBO-36; 10-31-2013)

- a. After OBO for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, authorizes the employment of local experts, the local expert in land titles must search the title and formally report in English that the field verification survey and the engineer's or land surveyor's report have been compared with the existing title record. The expert's report must contain the following certifications:
 - (1) That the property description in the purchase agreement corresponds exactly with the description in valid deeds and prior land surveys in the offices where conveyances, survey plats, and other instruments that affect title are officially recorded;

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- (2) The field verification of the existing title records reveals:
- (a) No discrepancies exist in measurement of boundaries or land areas;
 - (b) There are conditions (if these exist) that might adversely affect the U.S. interests (conditions to be listed) that do not appear in the abstract of title; or
 - (c) A comparison of the field survey and title search reveals certain exceptions (if these exist) to a clear and unencumbered title that do not appear in the present title record (exceptions to be listed), but that the vendor, at his or her expense, has taken or is taking all steps necessary to clear any noted exceptions, and that the proposed legal instrument of conveyance, as drawn by the local land title expert, will, under local law and custom, serve as a document of correction to the erroneous title record;
- (3) There are no mortgages, liens, charges, incidents of tenure, encroachments, reserved strips of land blocking access to public thoroughfares, street widening or public improvement projects proposed or pending, or any other encumbrances or defects of any kind recognized by the laws of the country as affecting the title; and
- (4) The vendor has a perfect, exclusive, and unencumbered title to the property and full power to convey it to the United States of America.
- b. If the description referred to in subparagraph (a)(1) of this section differs, the post must submit to OBO for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, a report that details the variances and the points that correspond. The report should indicate the steps necessary to correct the variances, if such corrections are recommended. If encumbrances or defects exist, the post must report to OBO for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, their nature, duration, and any plans to *correct* them.
- c. Fees for services of local land title experts will be funded by OBO for Department *of State* properties, or, USAID/W-M/MS/OMD, for USAID properties when notified of the estimated charge.

15 FAM 432.5 Post-purchase Certification

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Upon completion of the purchase, the local expert in land titles must certify in writing that:

- (1) The deed is in the form approved and uniformly used in the country;
- (2) The deed has been filed, recorded, and registered in accordance with local law, and the United States of America is now the legal owner of record; and

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- (3) All steps necessary to ensure a perfect, unencumbered title on behalf of the United States have been taken. If OBO for Department *of State* properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, has approved acquisition of an interest in realty with less than a perfect unencumbered title, the post must specify any way in which the title is less than perfect. In such instances, posts should also specify whether or not the imperfections may be remedied and, if so, how.

15 FAM 433 THROUGH 439 UNASSIGNED

15 FAM Exhibit 432.3

Requirements for Boundary and Building Location Surveys

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1. GENERAL REQUIREMENTS

- a. Provide an accurate transit and tape boundary and building location survey in English transmitted by means of finished drawings in metric measure by a locally authorized and licensed civil engineer or land surveyor.
- b. Field work must be of such accuracy that the unadjusted mathematical closure (accuracy ratio) of the field transverse is not less than 1:15,000 (one unit in fifteen thousand). Such accuracy may be attained by measuring all angles to the nearest 30 seconds of arc, or equivalent, and by measuring all distances horizontally to the nearest 3 millimeters.
- c. Areas must be shown in square meters.
- d. The civil engineer or land surveyor must prepare a written engineering report in English. The post must retain one-fourth of the survey contract price until OBO accepts the survey drawings. The post must retain the original tracing, *which can be any kind of graphic representation*, and submit two prints to OBO along with the signed report and survey certification.

2. BOUNDARY REQUIREMENTS

- a. Permanent monuments (boundary markers) must be accurately set at all corners, angle points, and curve points and must be one of the following, in order of preference:
 - (1) Concrete or stone monuments not less than 100 mm at the top and of such length that the base extends well below the frost line, but in no case less than 600 mm, carefully tamped in place, the top set flush with the ground and the actual property corner point marked by a metal plug, drill hole or chiseled cross;
 - (2) A 25 mm iron pipe or bar at least 750 mm long, driven flush with the ground with a 150 mm cement collar place around the tops; or
 - (3) Chiseled cross or drill holes placed in cement sidewalks, permanent walls, boulders, etc.
- b. All buildings and structures on and adjacent to the site must be located by measurements from property corners along and at right angles to property lines.

3. DRAWINGS

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- a. Drawings must be made with waterproof black ink on 0.08 mm (minimum) mylar sheets or other acceptable media especially prepared for ink drawings. If post requires the surveyor to submit a CADD file, mylar sheets may not be necessary. *A tracing can be any kind of graphic representation.* Because they are so brittle and easily creased or torn, drawings made on tracing paper or vellum are not acceptable:
 - (1) Prepare drawings no larger than International Standardization Organization (ISO) "A0"—841 mm x 1189 mm, or 36" x 48" in English units. ISO "A1"—549 mm x 841 mm is preferred;
 - (2) Use any appropriate scale provided that all information is accurately indicated and can be reproduced clearly;
 - (3) Show the exact limits of U.S. Government ownership by a distinctive symbol or heavy line. If walls are located along the property line, show the exact location of the property line with relation to the wall using an enlarged detail sketch, if necessary;
 - (4) Show all building location measurements and building dimensions, as well as the type of construction materials and number of floors and use of building, e.g., "two-story brick residence," "one-story frame garage," "one-story concrete block servants' quarters"; and
 - (5) Depict all measurements and dimensions in metric units, unless English units are the standard of the host country. All notations must have English translations.
- b. Finished drawings must show the items below:
 - (1) A drawing title, showing identification of the property, city, country, name of surveyor or engineer, date of survey, and drawing number, if any;
 - (2) A small-scale vicinity map, showing the general location of the property and its relation to other diplomatic and commercial establishments, host-country government offices and buildings, universities and schools, major streets and roads, airports, and bus stops;
 - (3) A graphic-bar scale and a numerical scale in words;
 - (4) A complete legend showing all symbols and abbreviations used;
 - (5) The location and a description of each boundary corner monument or marker;
 - (6) A north arrow or meridian, showing whether it is true or magnetic, and the direction and length of each property line; show the direction by azimuths clockwise from north or by compass bearings in the four quadrants, referred to either magnetic or true north;
 - (7) Distances to the nearest three mm. If measured distances differ from

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the deed (recorded) distances, show both and mark them "meas." and "deed";

- (8) All interior angles of the boundary, with the total geometrically correct. Using the sexadecimal system, the interior angles should total n (number of angles) minus two, multiplied by 180 degrees or, if the centesimal system is used, the interior angles should total n (number of angles) minus two, multiplied by 200 grads;
- (9) The adjusted final boundary data should have the closure (accuracy ratio) of no less than 1:15,000 (one unit in fifteen thousand units);
- (10) Define boundary lines following a circular curve by the radius, central angle, arc length, long-chord length, tangent length, and chord bearing. If the boundary line follows an irregular (noncircular) curve, define the boundary by evenly spaced and dimensioned right angle offsets from the long chord to the arc of the curve;
- (11) Total land area and deed (recorded) area, computed to the nearest square meter;
- (12) Describe and locate by measurements restriction or setback lines, easements, right-of-way, reservation lines, etc., and all encroachments of walls, fences, balconies, eaves, electric and telephone lines, water lines, sewers, etc.;
- (13) Names of all adjacent streets and widths between right-of-way lines, as well as names of owners of all adjacent properties;
- (14) If a local coordinate grid or other official survey control system is in use, coordinates of all property corners;
- (15) Final boundary data and properly identified coordinates set up in tabular form, if so desired;
- (16) A certification, signed and dated by surveyor or engineer, that he or she has made a careful and accurate transit and tape survey, that all data shown on the drawings are correct, that all property corner markers or monuments have been found or set as shown and described on the drawing, and that all local requirements for land surveys have been met;
- (17) GPS coordinates for the property corners; and
- (18) A 100-year floodplain and extent of other recorded natural hazards, if applicable.

4. ENGINEERING REPORT

The engineer or surveyor **must** submit a signed and dated written narrative report in English, with the name of the engineer or surveyor typed below the signature, covering any of the foregoing items that cannot be shown clearly on the drawing or that might require explanation or clarification.

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